

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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JOSEPH SIMMONS, Plaintiff,	:	
	:	
	:	
v.	:	Civil No. 2:22-cv-01644-JMG
	:	
THE CITY OF PHILADELPHIA, <i>et al</i> Defendants.	:	
	:	

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**ORDER**

**AND NOW**, this 12<sup>th</sup> day of October, 2023, upon consideration of Defendant’s Motion to Dismiss (ECF No.43) and Plaintiff’s Motion for Leave to File Fourth Amended Complaint (ECF No. 49),

**IT IS HEREBY ORDERED** that Defendant’s Motion to Dismiss (ECF No.43) is **DENIED AS MOOT**.

**IT IS FURTHER ORDERED** that Plaintiff’s Motion (ECF No. 49) is **GRANTED**.<sup>1</sup> The Clerk of Court is **DIRECTED TO DOCKET** Exhibit A to Plaintiff’s Motion (ECF No. 49-1) as “Fourth Amended Complaint.”

BY THE COURT:

/s/ John M. Gallagher  
JOHN M. GALLAGHER  
United States District Court Judge

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<sup>1</sup> Plaintiff seeks to file a fourth amended complaint without the consent of opposing counsel in this case. For the Third Amended Complaint, the Plaintiff’s further clarified claims brought and added defendants. *See* ECF No. 34.

Federal Rule of Civil Procedure 15 provides “ . . . a party may amend its pleading only with the opposing party’s written consent or the court’s leave . . . when justice so requires.” FED. R. CIV. P. 15(a)(2). Plaintiff avers his present Motion for Leave to File an Amended Complaint will present additional facts of which will strengthen his case. *See generally* ECF No. 49. These facts could help Plaintiff’s case and justice could require the amendment. At this time, the Court does not view the requested amendment as constituting undue delay, bad faith, or dilatory motives. Accordingly, the Court grants Plaintiff’s Motion for Leave to File an Amended Complaint.